



# California Regional Water Quality Control Board

## Santa Ana Region



**Linda S. Adams**  
Secretary for  
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348  
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221  
[www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

**Arnold Schwarzenegger**  
Governor

October 1, 2010

Richard Demerjian  
Director of Campus and Env. Planning  
University of California, Irvine  
750 University Tower  
Irvine, CA 92697-2325

**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS  
CERTIFICATION FOR THE VERANO PLACE APARTMENTS UNIT FOUR  
REDEVELOPMENT PROJECT, UNIVERSITY OF CALIFORNIA, IRVINE, ORANGE  
COUNTY (CORPS FILE NO. UNAVAILABLE) (SARWQCB REFERENCE NO.  
302010-34)**

Dear Mr. Demerjian:

On August 26, 2010, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), for discharges of fill associated with the demolition and replacement of the existing structures and parking areas known as the Verano Place Apartments Unit Four Redevelopment Project, located on the University of California, Irvine (UCI) campus in Orange County. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

**Project Description:** Placement of fill within an approximately 330 foot linear drainage feature located in the southeastern corner of the Verano Place Apartments Unit Four Redevelopment Project site. Filling this drainage is part a larger project that will replace the aging apartment buildings in the Verano Place Unit Four student-housing complex. Existing site improvements including pedestrian paths, bike paths, landscaping, and site lighting would also be demolished and new improvements constructed as part of the Project. The drainage function of this feature will be replaced with a conventional underground storm drain parallel to California Avenue. The fill site is located within Section 16 of Township 6 South, Range 9 West, of the U.S. Geological Survey *Tustin, California*, 7.5-minute topographic quadrangle map (33 deg. 38 min. 41.61 sec. N/ -117 deg. 49 min. 46.31 sec. W).

***California Environmental Protection Agency***



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Receiving water: An un-named ephemeral riparian drainage tributary to Sand Canyon Channel.

Fill area: 0.04 acre of permanent impact to a riparian ephemeral drainage (330 linear feet).

Dredge/Fill volume: N/A

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 18

You have proposed to mitigate water quality impacts as described in your Certification application and subsequent submittals. The proposed mitigation is summarized below:

**Onsite Water Quality Standards Mitigation Proposed:**

- 'First-flush' and nuisance flow discharges from the Project will be treated by sand filters within the building courtyards and bio-retention basins around the building exteriors.
- Pervious pavement will be used within the Project's parking areas.
- Additional best management practices (BMPs) to remove pollutants from storm water runoff will be incorporated in the Project's Water Quality Management Plan (WQMP) and Storm Water Pollution Prevention Plan (SWPPP).

**Offsite Water Quality Standards Mitigation Proposed:**

- 0.11 acre of the drainage between Adobe Circle Road and Campus Drive, on the UCI campus, will be enhanced/restored through the removal of non-native vegetation and installation of native wetland and riparian plants.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate Best Management Practices will be implemented to reduce construction-related impacts to Waters of the State. This project is over one acre. Therefore, coverage under the State Water Resources Control Board's General Permit for Storm Water Discharges Associated with Construction Activity, Water Quality Order 99-08 DWQ, is required, as is development of a Storm Water Pollution Prevention Plan (SWPPP), to control the discharge of pollutants from the project site.



You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. You have applied for a Streambed Alteration Agreement with the California Department of Fish and Game.

Pursuant to the California Environmental Quality Act (CEQA), UCI adopted a Mitigated Negative Declaration (MND) for the Verano Place Apartments Unit Four Redevelopment Project on June 10, 2010. Pursuant to California Code of Regulations, Title 14, Section 15096, subdivision (f), the Regional Board is required to consider an EIR or MND prepared by the lead agency in determining whether to approve a Section 401 Certification, must consider the environmental effects of the project as reported in the associated EIR prior to reaching a decision on the project. The responsible agency has responsibility for mitigating and avoiding only the direct and indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.

Further, the responsible agency must make findings as required by Sections 15091 and, if necessary, 15093, for each and every significant impact of the project. As required by Section 15096, the Regional Board has considered the MND prepared for the proposed project, and information provided subsequently by the applicant in approving this Certification.

In the issuance of this Certification, the Executive Officer has considered those sections of UCI's MND that relate to water quality. Based on the mitigation measured proposed in the applicant's MND, and the conditions set forth in this Certification, impacts to water quality will be reduced to a less than significant level and beneficial uses will be protected. The Regional Board independently finds that changes or alterations have been required or incorporated into the project that avoid or mitigate impacts to water quality to a less than significant level.

**This 401 Certification is contingent upon the execution of the following conditions:**

1. This Certification is conditioned upon the construction of all storm water treatment facilities as proposed. All structural storm water treatment facilities must be constructed and operational prior to the submittal of a Notice of Termination pursuant to State Board Order No. 99-08 DWQ, or subsequent renewals.
2. Regional Board staff and other authorized representatives must be allowed:
  - a. Entry upon premises where storm water treatment facilities are located, or where records are kept under the requirements of this Certification and applicable waste discharge requirements;
  - b. Access to copy any records that are kept under the requirements of this Certification and applicable waste discharge requirements;

- c. To inspect any facility, equipment (including monitoring and control equipment), practices, or operations related to the treatment of storm water runoff from the project site; and
  - d. To photograph, sample and monitor for the purpose of assuring compliance with this Certification and applicable waste discharge requirements.
3. This Certification and any subsequent amendments must be maintained on site as a denoted element of any project SWPPP or WQMP.
4. 0.11 acre of the drainage between Adobe Circle Road and Campus Drive will be enhanced and restored through the removal of non-native vegetation and installation of native wetland and riparian plants as proposed. The eradication and restoration effort must utilize published and generally accepted methods with a minimum of 6 years of follow-on maintenance to ensure effective eradication and success of restoration. Initial eradication work must begin not later than December 15, 2010. A report must be provided by January 15<sup>th</sup> of each year thereafter, for a period of 5 years, documenting the progress of the eradication effort.
5. The project proponent shall utilize Best Management Practices during project construction to minimize the controllable discharges of sediment and other wastes to drainage systems or other waters of the state and of the United States.
6. Substances resulting from project-related activities that could be harmful to aquatic life, including, but not limited to, petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, portland cement concrete or asphalt concrete, and washings and cuttings thereof, shall not be discharged to soils or waters of the state. All waste concrete shall be removed.
7. Motorized equipment shall not be maintained or parked within or near any stream crossing, channel or lake margin in such a manner that petroleum products or other pollutants from the equipment may enter these areas under any flow conditions. Vehicles shall not be driven or equipment operated in waters of the state on-site, except as necessary to complete the proposed project. No equipment shall be operated in areas of flowing water.
8. Best management practices to stabilize disturbed soils must include the use of native plant species whenever feasible.



**Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860**, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

Although we anticipate no further regulatory involvement, if the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, we may formulate Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification.

In response to a suspected violation of any condition of this certification, the Santa Ana Regional Water Quality Control Board (Regional Board) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Board deems appropriate. The burden, including costs, of the reports shall be reasonable in relation to the need for the reports and the benefits to be obtained from the reports.

In response to any violation of the conditions of this certification, the Regional Board may add to or modify the conditions of this certification as appropriate to ensure compliance.



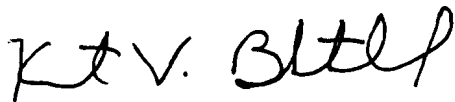
October 1, 2010

Pursuant to California Code of Regulations Section 3857, we will take no further action on your application. Please notify our office five (5) days before construction begins on this project.

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 2003-0017-DWQ is available at [www.swrcb.ca.gov/resdec/wqorders/2003/wgo/wgo2003-0017.pdf](http://www.swrcb.ca.gov/resdec/wqorders/2003/wgo/wgo2003-0017.pdf)

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



Kurt V. Berchtold  
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Jae Chung  
State Water Resources Control Board, OCC – David Rice  
State Water Resources Control Board, DWQ-Water Quality Certification Unit – Bill Orme  
California Department of Fish and Game, Ontario Office – Jeff Brandt  
U.S. EPA, Supervisor of the Wetlands Regulatory Office WTR- 8 – Eric Raffini and David Smith

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